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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,768	12/29/2000	Henri Waelbroeck	061165-0007	8654

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EXAMINER	
HAMILTON, LALITA M	
ART UNIT	PAPER NUMBER
3691	
MAIL DATE	DELIVERY MODE
06/14/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/750,768	WAELBROECK ET AL.	
	Examiner	Art Unit	
	Lalita M. Hamilton	3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *20 March 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2 and 4-39* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2 and 4-39* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

On September 20, 2006, an Office Action was sent to the Applicant rejecting claims 1-2 and 4-38. On March 20, 2007, the Applicant responded by amending claim1 and adding new claim 39.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 31-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Shaw (2003/0004859), as set forth in the previous Office Action (detailed in the Office Action mailed on December 17, 2004).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-2, 4-24, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw in view o Condamoor (7,003,486), as set forth in the previous Office Action.

With regard to amended claim 1, Shaw discloses identifying said second market participant as a market participant that is most likely to take a contra side of said electronically executable order and as unlikely to use information regarding said order in a manner that would affect the price or availability of said security (p.4, 48-50 and p.5, 72-79). With regard to new claim 39, Shaw does not disclose said second market participant is a market maker, and wherein said step of comparing data provided by a plurality of market participants comprises the step of netting out middlemen to identify an end buyer and an end seller in a trade results in identifying net market position of said market maker. Condamoor teaches an electronic trading system wherein said second market participant is a market maker, and wherein said step of comparing data provided by a plurality of market participants comprises the step of netting out middlemen to identify an end buyer and an end seller in a trade results in identifying net market position of said market maker (the second market participant may be the market maker by setting price based on supply and demand and matches are made by the system made on best match—col.1, lines 20-50). It would have been obvious to one

having ordinary skill in the art at the time the invention was made to incorporate the teachings of Condamoor with Shaw to provide for a more efficient market.

Claims 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaw and Condamoor as applied to claim 2 above, and further in view of Lupien (5,950,177), as set forth in the previous Office Action (detailed in the Office Action mailed on December 17, 2004).

Response to Arguments

Applicant's arguments filed March 20, 2006 have been fully considered but they are not persuasive. The Applicant argues that neither Shaw nor Condamoor disclose or teach wherein no information regarding said second market participant is transferred to said first market participant. In response, Condamoor teaches that trade agents keep information about true values confidential from the exchange and from all other trading partners and disclose only this information to selected trading partners if authorized to do so (p.8, line 25-32). Thus, the Examiner found it to have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the teachings of Condamoor with Shaw to prevent information regarding a second market participant from being transferred to a first market participant.

The Applicant argues that Claims 2 and 4-24 and 31-38 are not mentioned in the Office Action. In response, the grounds for rejection to these claims were set forth in the Office Action mailed on December 17, 2004. The grounds for rejection to these claims have not changed.

The Applicant argues that Lupien does not teach calculating probabilities or ranking market participants on a dissemination list in order of likelihood of taking a contra side of an order. In response, Lupien teaches ranking combinations based on mutual satisfaction and matches based thereon (col.4, lines 20-30). Thus, the Examiner found it to have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Lupien with Shaw and Condamoor as an alternative means of matching orders successfully.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M. Hamilton whose telephone number is (571) 272-6743. The examiner can normally be reached on Tuesday-Thursday (6:30-2:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kalinowski Alexander can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LALITA M. HAMILTON
PRIMARY EXAMINER